

JURISDICTION:

MONTANA

General Reference:

This chapter summarizes Montana State statutes related to speed.
Montana Code Annotated and Administrative Rules of Montana

Basis for a Speed Law Violation:

Basic Speed Rule:

Subject to the (maximum) statutory speed limits below, a person shall operate a vehicle in a careful and prudent manner and at a reduced rate of speed no greater than is reasonable and prudent under the conditions existing at the point of operation, taking into account the amount and character of traffic, visibility, weather and roadway conditions.¹ 61-8-303(4)

Statutory Speed Limit:

75 MPH² at all times on Federal-Aid interstate highways outside an urbanized area with population $\geq 50,000$ 61-8-303(1)(a)
65 MPH² at all times on Federal-Aid interstate highways within an urbanized area with a population $\geq 50,000$ 61-8-303(1)(a)
70 MPH² during the daytime³ and 65 MPH² during the nighttime³ on any other public highway 61-8-303(1)(b)
65 MPH at all times on U.S. Highway 93 between the Canadian and Idaho borders unless the highway is upgraded to a continuous four lane highway. 61-8-303(2)
25 MPH in an urban district 61-8-303(5)

Posted (Maximum) Speed Limit:

I. The State Department of Transportation, based on engineering and traffic investigations which indicate that a greater or less speed limit than noted above is reasonable or safe, may establish different speed limits on a segment of a highway less than 50 miles in length. 61-8-309(1) The law does not specifically state whether different highway speed limits may be established either for different types of vehicles, for various weather conditions or for different times of the day.
II. Based on engineering and traffic investigations, the State may establish safe maximum speed limits for bridges or other elevated structures. 61-8-313(2) & (3)
III. Based on engineering and traffic investigations, a local government may increase or decrease the maximum speed limits on highways under its jurisdiction.⁴ 61-8-310(1)

Basis for a Speed Law Violation:
(continued)

Posted (Maximum) Speed Limit: (continued)

IV. A local government may establish speed limits on county roads (as defined under 60-1-103) without an engineering and traffic

IMPORTANT. The State supreme court has held that certain provisions of the State's previous basic speed rule were void for vagueness under the due process clause of its constitution. *State v. Stanko*, 974 P.2d 1132 (Mont. 1998)

When traveling on a two lane road, a person may exceed this speed limit by 10 MPH in order to overtake and pass another vehicle. 61-8-303(3)

"Daytime" means one-half hour before sunrise to one-half hour after sunset. "Nighttime" means any other hour except daytime. 61-8-303(6)

. However, the following limitations apply. (1) The posted speed limit in an urban district cannot be > 65 MPH during the nighttime. 61-8-310(1)(b) (2) And speed limit outside an urban district cannot be < 35 MPH. 61-8-310(1)(c) II. Also, based on engineering and traffic investigations, a local government may establish zones near schools or senior citizen centers and for the crosswalks that are close to them. The speed limit in such places cannot be < 15 MPH. 61-8-310(1)(d) (N Montana Legislature has adopted a resolution encouraging city and county governments to lower the speed limit in school zones to 15 MPH. House Joint Resolution adopted in 1999)

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	investigation. 61-8-310(1)(c) & (2) V. Under separate authority, a local government may determine the proper speed limits for all arterial streets under its jurisdiction. Such limits may be less or greater than the maximum speed limit provided for an urban district (61-8-303). 7-14-2113 & 61-8-310(3) VI. The State Department of Transportation or a local government must establish appropriate speed limits in construction zones ⁵ and work zones. ⁶ Note: This authority may also extend to utility companies and private contractors. 61-8-314(2), (3) & (4)
Minimum Speed Limit:	I. A motor vehicle may not be driven at a speed slow enough to impede or block the normal and reasonable movement of traffic. 61-8-311(1) II. A person, driving at less than the normal speed of traffic, shall drive in the right-hand lane then available for traffic or as close as practicable to the right-hand curb or edge of the roadway. 61-8-321(2)
Posted (Minimum) Speed Limit:	Based on engineering and traffic investigations, the State or a local government may establish a minimum posted speed limit for all or part of a highway. 61-8-311(3)
Other:	I. For trucks with a >1 ton manufactures rated capacity, except for the maximum statutory limits per 61-8-303 and speeds limits established per 61-8-309 & 61-8-310, the maximum speed limits are as follows: (a) 65 MPH on completed sections of interstate highways; and, (b) 60 MPH during the daytime ³ and 55 MPH during the nighttime ³ on four-lane divided highways and completed sections of primary and secondary highways. 61-8-312(1)(a) & (b) II. Except for the maximum statutory limits per 61-8-303 and speeds limits established per 61-8-309 & 61-8-310, special permit vehicles cannot be driven >55 MPH. 61-8-312(2) III. A vehicle with sold rubber or cushion tires cannot be driven >10 MPH. 61-8-313(1)
<u>Adjudication of Speed Law Violations:</u>	
Civil/Criminal Adjudication of Violation:	All Speed Law Violations are Misdemeanors. 61-8-314(2) & (5) and 61-8-711(1)
Other:	
<u>Sanctions Following an Adjudication of a Speed Law Violation:</u>	
Criminal Sanctions:	
Imprisonment:	
Term (Day, Month, Years,	
Etc.):	None 61-8-711(2) & 61-8-725(1)
Mandatory Minimum Term:	
Fine:	

A construction zone is defined as an area on a public highway or on the adjacent right-of-way where construction, repair, maintenance, or survey work is ordered by the department of transportation, a local authority, a utility company, or a private contractor under contract with the department of transportation or a utility. A construction zone may include a work zone. 61-8-314(1)(a)

A work zone is defined as the area where the construction, repair, maintenance, or survey work is actually taking place. 61-8-314(1)(b)

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Amount (\$ Range):

I. Violation of Statutory Speed Limits Under 61-8-303. 1 to 10 MPH over the speed limit-\$**20**; 11 to 20 MPH over the speed limit-\$**40**; 21 to 30 MPH over the speed limit-\$**70**; and 31 or more MPH over the speed limit-\$**100** 61-8-725(1)

II. Other Speed Law Violations. 1st offense-\$**10 to \$100** 2nd offense (within 1 year)-\$**25 to \$200** Subsequent offense (within 1 year)-\$**50 to \$500** 61-8-711(2)

Mandatory Min. Fine (\$):

None

Other Penalties:

Traffic School:

Driver Improvement Program 61-2-302 & Administrative Rules of Montana 23.3.203

Other:

Double Fines. The fines are double the usual amount for exceeding the posted speed limit in a work zone. 61-8-314(5)(a)

Licensing Action:

Type of Licensing Action

(Susp/Rev):

Suspension via Point System⁷-Frequent violator of the traffic laws.

Revocation Habitual Traffic Offender⁸ 61-11-201 et seq.

Sanctions Following an Adjudication of a Speed Law Violation: (continued)

Term of License Withdrawal

(Days, Months, Years, etc.):

Suspension-6 months Administrative Rules of Montana 23.3.203(2) Note: The law limits a suspension to a maximum period of **1 year**. 61-5-208(1) **Revocation** (Habitual Offender)-**3 years** 61-11-211 & 61-11-212

Mandatory Minimum Term of

Withdrawal:

Suspension-None Licensing action is discretionary **Revocation** (Habitual Offender)-**1 year**⁹

Driver Rehabilitation Point System. I. If an offender accumulates 6 points within 18 months, they may be required to attend a counseling session or be subject to re-examination. II. If an offender accumulates 15 or more points within 36 months, they are subject to a 6 month license suspension and must be referred to a Driver Rehabilitation Program. III. The following points are assigned to speeding and speed related violations: Engaging in race or speed contest (i.e., unauthorized speed contests; driving recklessly-5 points; speeding in a restricted speed zone-3 points; speeding 25 MPH in an urban district-3 points; speeding 35 MPH in a construction zone; speeding >65 MPH at night on an interstate*-3 points; speeding >55 MPH at night on other highways*-3 points; driving certain trucks >55 MPH at night*, >60 MPH at night* or >65 MPH on interstate highways*-3 points; violating posted (restricted) speed limits established by either the State or local governments in violation of the posted speed limit on bridges or elevated structures-3 points; towing a house trailer >50 MPH*-3 points; obstructing traffic by driving under the minimum speed (after being warned)-2 points; not driving in the right lane when operating a slow moving vehicle-2 points; violating the basic speed rule-2 points; and, careless driving-2 points. 61-5-206(1)(b), Administrative Rules of Montana 23.3.202(1), (2) & (3) and 23.3.203 **Important.** A violation of the statutory speed limits under 61-8-303 is not recorded on a person's driving record unless they exceed the speed by more than 10 MPH during the daytime or 5 MPH during the nighttime. 61-8-725(2)

to amendments made to 61-8-303 & 61-8-312 by respectively 2 & 6 of Chapter 43 (Session Laws of 1999), this is no longer a specific violation of the law.

Habitual Offender Point System. If a person accumulates 30 points within a 3 year period, they are subject to a 3 year license revocation. The following points are assigned to speeding and speed related offenses. Reckless driving-5 points; illegal drag race or engaging in a speed contest (i.e., unauthorized speed contest)-5 points; speeding >65 MPH at night on an interstate*-3 points; speeding >55 MPH at night on other highways*-3 points; driving certain trucks >55 MPH at night*, >60 MPH at night* or >65 MPH on interstate highways*-3 points; violating posted (restricted) speed limits established by either the State or local governments in violation of the posted speed limit on bridges or elevated structures-3 points; towing a house trailer >50 MPH*-3 points; obstructing traffic by driving under the minimum speed (after being warned)-2 points; not driving in the right lane when operating a slow moving vehicle-2 points; violating the basic speed rule-2 points; and, careless driving-2 points. 61-11-203(2)(h), (i), (l) & (m) **Important.** A violation of the statutory speed limits under 61-8-303 is not recorded on a person's driving record unless they exceed the speed by more than 10 MPH during the daytime or 5 MPH during the nighttime. 61-8-725(2)

An offender may be issued restricted driving privileges after 1 year of the revocation period provided they participate in a driver rehabilitation program. 61-11-203(2)(a)(ii)

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Miscellaneous Sanctions
Not Included Elsewhere:

Other Criminal Actions Related to Speeding:

Unauthorized Speed Contest (Drag Racing):

Sanctions:

Criminal Sanction:

Imprisonment (Term):

Mandatory Minimum Term:

Fine (\$ Range):

Mandatory Minimum Fine:

Misdemeanor 61-8-308, 61-8-711(1) & 61-8-717

Not more than **6 months** 61-8-717

None

\$50 to \$500 61-8-717

None

Administrative Licensing Action:

Licensing Authorized and

Type of Action:

Suspension or Revocation-See Driver Rehabilitation and Habitual Offender Point Systems respectively under Footnotes 7 & 8.

Length of Term of

Licensing Withdrawal:

Mandatory Action--Minimum

Length of License

Withdrawal:

Other:

Double Fines. The fine appears to be double the usual amount if the offense occurred in a work zone. 61-8-314(2) & (5)(a)

Reckless Driving¹⁰:

Sanction:

Criminal:

Imprisonment (Term):

Misdemeanor 61-8-301 & 61-8-711(1)

1st offense-Not more than **90 days** Subsequent offense-**10 days to 6 months** 61-8-715(1)

Mandatory Minimum Term

of Imprisonment:

None

Other Criminal Actions Related to Speeding: (continued)

Reckless Driving: (continued)

Fine (\$ Range):

1st offense-**\$25 to \$300** Subsequent offense-**\$50 to \$500** 61-8-715(1)

Mandatory Minimum Fine:

None

Administrative Licensing Actions:

Type of Licensing Action

(Susp/Rev):

Suspension or Revocation-See Driver Rehabilitation and Habitual Offender Point Systems respectively under Footnotes 7 & 8.
Revocation-3 reckless driving convictions within 12 months 61-5-205(6)

Length of Term of License

Withdrawal Action:

Mandatory Term of License

Suspension or Revocation-Not more than **1 year** 61-5-208

If the offender commits a reckless driving offense while fleeing law enforcement officers, the following sanctions apply. For a 1st offense, there is imprisonment from **to 6 months** and/or a fine from **\$300 to \$500**; and, for a subsequent offense, there is imprisonment from **30 days to 1 year** and/or a fine of from **\$500 to \$1,000** (2)

Withdrawal Action:	None
Other:	Double Fines. The fine appears to be double the usual amount if the offense occurred in a work zone. 61-8-314(2) & (5)(a)
<u>Reckless Endangerment of Highway Workers</u> ¹¹ :	
Sanction:	Misdemeanor 61-8-315 & 61-8-711(1)
Criminal:	
Imprisonment (Term):	<u>1st offense</u> -Not more than 90 days <u>Subsequent offense</u> - 10 days to 6 months 61-8-715(1)
Mandatory Minimum Term of Imprisonment:	None
Fine (\$ Range):	<u>1st offense</u> - \$25 to \$300 <u>Subsequent offense</u> - \$50 to \$500 61-8-715(1)
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Note: The law is not certain but the licensing actions that apply for a reckless driving offense conviction may also apply to this offense.
Length of Term of License	
Withdrawal Action:	
Mandatory Term of License	
Withdrawal Action:	
Other:	Double Fines. The fine appears to be double the usual amount if the offense occurred in a work zone. 61-8-314(2) & (5)(a)
<u>Other Criminal Actions Related to Speeding:</u> (continued)	
<u>Careless Driving</u> ¹² :	
Criminal:	Misdemeanor 61-8-302, 61-8-711(1) & 61-8-716
Imprisonment (Term):	<u>1st or subsequent offense</u> - None 61-8-711(2)
Mandatory Minimum Term of Imprisonment:	
Fine (\$ Range):	<u>1st offense</u> - \$10 to \$100 <u>2nd offense</u> (within 1 year)- \$25 to \$200 <u>Subsequent offense</u> (within 1 year)- \$50 to \$500 61-8-711(2)
Mandatory Minimum Fine:	None
Administrative Licensing Actions:	
Type of Licensing Action (Susp/Rev):	Suspension or Revocation -See Driver Rehabilitation and Habitual

Driving a motor vehicle in a highway construction zone in such a manner as to endanger persons or property. This offense also includes removing, ignorantly striking a traffic control device in a highway construction zone. 61-8-315 Reckless endangerment of highway workers also includes driving at a speed other than is reasonable and proper under the existing conditions while proceeding past the signal or light of either a police or emergency vehicle. 61-9-402(4)(a) & (b). A person, who violates this requirement, is subject to the following sanctions. For a 1st offense, there is imprisonment from **10 days to 6 months** and/or a fine from **\$300 to \$1,000**; and, for a subsequent offense, there is imprisonment from **30 days to 1 year** and/or a fine of from **\$500 to \$1,000** 61-8-715(2)

A person commits a "careless driving" offense if they do not operate a motor vehicle "in a careful and prudent manner so as not to unduly or unreasonably endanger the property, or other rights of a persons entitled to the use of the street or highway." 61-8-302

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Length of Term of License
Withdrawal Action:
Mandatory Term of License
Withdrawal Action:

Other:

Offender Point Systems respectively under Footnotes 7 & 8.

Double Fines. The fine appears to be double the usual amount if the offense occurred in a work zone. 61-8-314(2) & (5)(a)

Commercial Motor Vehicle (CMV) Operators¹³:

Grounds for Suspension:

A CDL license is suspended CMV if while driving a CMV a person either (1) commits more than 1 "serious traffic violations"¹⁴ within a 3 year period or (2) commit 3 or more such violations within a 3 year period. 61-8-803

Period of Suspension:

More than one (1) serious violations (within 3 years)-**60 days** 3 or more serious violations (within 3 years)-**120 days** 61-8-803(1)

Period of Mandatory Suspension:

More than one (1) serious violations (within 3 years)-**60 days** 3 or more serious violations (within 3 years)-**120 days** 61-8-803(1)

A person who has obtained a commercial driver's license (CDL) and is qualified to operate a commercial motor vehicle. A commercial motor vehicle is defined as a vehicle designed to carry either passengers or property and either has a gross vehicle weight of $\geq 26,001$ lbs., is designed to carry 16 or more persons, or is transporting hazardous materials which requires that the vehicle to be placarded in accordance with U.S. Department of Transportation regulations. 61-1-134

A "serious traffic violation" includes exceeding the speed limit by 15 or more MPH or reckless driving. 61-8-803